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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

EDWARD NOLAN COWARD,

Defendant and Appellant.

E064365

(Super.Ct.No. RIF1310003)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Becky Dugan, Judge.

Affirmed.

Edward Nolan Coward, in pro. per.; and Richard Power, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant, Edward Nolan Coward, filed a petition for resentencing pursuant to Penal Code sections 1170.126 and 1170.18,¹ which the court denied. After

¹ All further statutory references are to the Penal Code unless otherwise indicated.

defendant filed a notice of appeal, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and identifying one potentially arguable issue: whether the court erred in denying defendant's petition.

Defendant was offered the opportunity to file a personal supplemental brief, which he has done. In his brief, defendant apparently contends the court erred in imposing a \$300 restitution fine and that the sentence was legally unauthorized. Defendant's latter assertion is not supported by intelligible argument and, therefore, we are unable to respond. We affirm.²

I. PROCEDURAL HISTORY

On September 6, 2013, the People charged defendant by felony complaint with evading a police officer (count 1; Veh. Code, § 2800.2), first degree burglary (count 2; Pen. Code, § 459), resisting an officer (count 3; Pen. Code, § 69), assault with a deadly weapon on a police officer (count 4; Pen. Code, § 245, subd. (c)), malicious interference with a police animal (count 5; Pen. Code, § 600, subd. (a)), driving under the influence (Veh. Code, § 23152, subd. (a)), and possession of drug paraphernalia (Health & Saf. Code, § 11364.1). The People additionally alleged defendant had suffered two prior prison terms (Pen. Code, § 667.5, subd. (b)), a prior serious felony conviction (Pen. Code,

² After defendant failed to timely file a supplemental brief, we issued an opinion on February 16, 2016, affirming the judgment. Defendant, apparently, mistakenly sent a request for an extension of time to file his supplemental brief to the superior court. On March 14, 2016, we vacated the filing of our opinion and granted defendant a 45-day extension to file his supplemental brief, which he has now done.

§ 667, subd. (a)), and a prior strike conviction (Pen. Code, §§ 667, subds. (c), (e)(1), 1170.12, subd. (c)(1)).

On May 1, 2014, pursuant to a plea agreement, defendant pled guilty to counts 1, 3, and 4 and admitted the prior strike conviction allegation. In return, defendant was sentenced to the low term of three years, doubled pursuant to the strike prior, on count 4, with concurrent sentences on counts 1 and 3, for a total period of six years' incarceration. The remaining charges and allegations were dismissed. After noting that there were no victim restitution issues, the court imposed a restitution fine of \$300 pursuant to section 1202.4, subdivision (b).

On February 19, 2015, defendant filed a petition for resentencing pursuant to sections 1170.126 and 1170.18. That same day, the court denied the petition noting that “[t]he crimes the defendant was convicted of are not affected by either” sections 1170.126 or 1170.18. On April 15, 2015, defendant filed a request for reconsideration. The court denied the request the same day.

On August 19, 2015, defendant filed another request for reconsideration. The same day, the court denied the request noting that “defendant does not qualify for” relief pursuant to section 1170.18 because his conviction for assault on a police officer “is not a qualifying felony.”

II. DISCUSSION

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

(§ 1202.4, subd. (b) [“In every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine”].)

III. DISPOSITION

The judgment is affirmed.

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McKINSTER
J.

We concur:

RAMIREZ
P. J.

MILLER
J.